

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SALVATORE SABBATINO

Application No. 10/809,298



ORDER RETURN UNDOCKETED APPEAL TO EXAMINER

The Order Returning Undocketed Appeal to the Examiner, mailed on May 31, 2007, is hereby vacated. A corrected Order is set forth below. The matter requiring attention is identified below:

On February 26, 2007, an Examiner's Answer was mailed. On page 3, under the heading "**Summary of Claimed Subject Matter**" the examiner stated that "The Summary of Claimed Subject matter contained in the brief is deficient" However, there is no indication that the Appellants responded to the deficiency noted in the Examiner's Answer.

Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) notify applicants to file a paper providing a summary of the claimed subject matter as required by 37 CFR § 41.37(c)(1)(v);
- 2) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v); and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



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PJN/dal

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